

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FEB 17 PM 4:09
CLERK *A. Moore*
SO. DIST. OF GA.

WILLIAM DEGENHART, M.D.,)

Plaintiff,)

v.)

ARTHUR STATE BANK, THE DEGENHART)
LAW FIRM, PAUL DEGENHART AND MARY)
NELL DEGENHART,)

Defendants.)

Civil Action No. **CV 411 - 041**

NOTICE OF REMOVAL

Defendant Arthur State Bank ("ASB" or the "Bank") files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice, ASB states as follows:

1. On December 27, 2010, an action was commenced against ASB and others in the Superior Court of Chatham County, Georgia, entitled *William Degenhart, M.D. v. Arthur State Bank, The Degenhart Law Firm, Paul Degenhart and Mary Nell Degenhart*, Civil Action No. CV10-1960-FR., by the filing of a Complaint and Summons. The Savannah Division of the United States District Court for the Southern District of Georgia embraces Chatham County, Georgia, where the action is now pending.

2. This notice is filed within thirty days of the receipt of the Summons and Complaint by ASB, which were served on ASB on January 18, 2011. The notice is therefore timely filed under 28 U.S.C. § 1446(b).

3. Plaintiff is, and was at the commencement of this action, a citizen of the State of Georgia. (Compl. ¶ 1). ASB is, and was at the commencement of this action, a South Carolina state bank with its principal place of business located in South Carolina,

thus making it a citizen of the State of South Carolina. (Compl. ¶ 2). Defendant The Degenhart Law Firm is, and was at the commencement of this action, a professional association organized and existing under the laws of the State of South Carolina with its principal place of business located in South Carolina, thus making it a citizen of the State of South Carolina. (Compl. ¶ 3). Defendants Paul Degenhart and Mary Nell Degenhart are, and were at the commencement of this action, citizens of the State of South Carolina. (Compl. ¶¶ 4, 5). Accordingly, there is complete diversity of citizenship between the Plaintiff and the Defendants.

4. The matter in controversy involves a claim for money damages of an unspecified amount (Compl. Prayer ¶ (c)) and a claim for a declaratory judgment that Plaintiff is not obligated to perform a promissory note with a face amount of \$100,000 or a personal guaranty having a monetary value to Plaintiff in excess of \$75,000, exclusive of interest and costs. (Compl. ¶¶ 10, 23-28, Prayer ¶ (c), Exhibits A and B). The amount in controversy therefore exceeds \$75,000.00, exclusive of interest and costs.

5. Given the diversity of citizenship of the parties and the amount in controversy, this is a civil action of which the United States District Courts have original jurisdiction under 28 U.S.C. § 1332(a) and the action is properly removable under 28 U.S.C. § 1441(a). Should there be any claims in Plaintiff's Complaint that do not fall within the jurisdiction provided by 28 U.S.C. § 1332(a), such claims are properly removed to this Court pursuant to 28 U.S.C. § 1367, as this Court would have supplemental jurisdiction over them.

6. Defendants The Degenhart Law Firm, Paul Degenhart, and Mary Nell Degenhart consent to this removal as shown by their "Consent to Removal" attached hereto as Exhibit A.

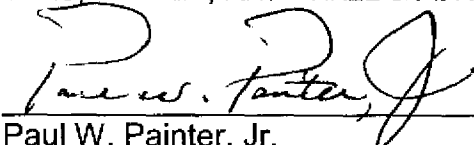
7. Defendants are complying with all requirements for notice to the Superior Court of Chatham County and to the Plaintiff, as shown by the notice attached as Exhibit B.

8. ASB attaches hereto copies of the General Civil Case Filing Information Form (Exhibit C), Summons (Exhibit D), Complaint for Damages and Petition for Declaratory Judgment (E), Certification Under Rule 3.2 (Exhibit F), Plaintiff's First Request for Admissions (Exhibit G), Plaintiff's First Interrogatories (Exhibit H), Plaintiff's First Request for Production of Documents (Exhibit I), and Notice of Filing for the Affidavit of Service on Arthur State Bank (Exhibit J), those being all pleadings, process and other documents served upon ASB in the Superior Court of Chatham County. No further pleadings, motions or orders have been filed in this action.

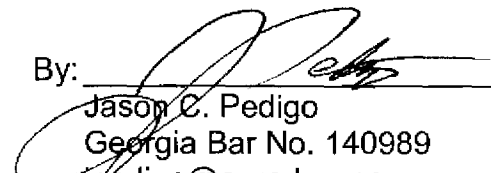
9. In filing this Notice of Removal, ASB reserves, and does not waive, its defenses and objections to lack of personal jurisdiction, improper venue, insufficiency of service of process, and any other defenses.

WHEREFORE, Defendant Arthur State Bank asks this Court to accept this Notice of Removal and to allow this action to proceed in this Court.

ELLIS, PAINTER, RATTERREE & ADAMS LLP

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By: 
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Attorneys for Arthur State Bank

CERTIFICATE OF SERVICE

I, Paul W. Painter, Jr., certify that on this day a copy of the foregoing NOTICE OF REMOVAL was mailed to the following:

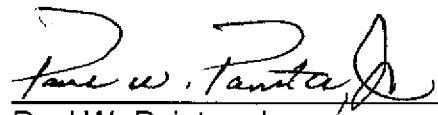
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Paul Degenhart
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Mary Degenhart
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So certified this 17th day of February, 2011.

A handwritten signature in black ink, appearing to read "Paul W. Painter, Jr.", written over a horizontal line.

Paul W. Painter, Jr.
Georgia Bar Number 559450
Attorney for Arthur State Bank

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